1890-045 Chancery Causes: William Pennington &c vs. Hiram Kinser &c
Lee Co.

Hyatt, Phillips

CA-Estate Dispute
T -Property

To the Hon H. S. K. Morrison Judge of the Circuit Court of Lee County Virginia;

Your Orators William Pennington and John A G. Hyatt would respectfully show. that about the day of 188 Francis M. Phillips and Rhoda Phillips his wife both departed this life intestate in Lee County Virginia, and they left surviving them 6 children their heirs at law. to wit Junie E. Phillips now the wife of Hiram Kinser, Allie P. Phillips, Abigal E. Phillips. Mary E. Phillips Jennie M. Phillips, and Lee Phillips all of whom are under the age of 21 years and are therefore minors but the said Junie E. Kinser and the said Allie P. Phillips are over the age of 14 years and the remaining four are under 14 years of age The said Hiram Kinser is over the age of 21 years and being the husband of the said Junie E. is therefore her natural guardian

Your Orator John A G. Hyatt has been appointed by the county court of Lee County Guardian for the said Allie P. Phillips and has given the requisite bond and has duly qualified as such. And your Orator William Pennington has likewise been appointed by the said county court guardian for the said Abigal E. Mary E. Jennie M. and Lee Phillips and has given bond and qualified according to law as such Guardian,

Your Orators state that the said Rhoda Phillips was a Daughter of One Henry and Abigal Daugherty who died some years ago in this county the owner of a valuable tract of land lying in Lee County on the north side of Powells Mountain and south side of wallens ridge, and on both sides of Wallens creek supposed to contain from 300 to 500 acres and is situated about 4 Miles South of Jonesville

At the death of said Henry and Abigal Daugherty the said lands descended to Barby[1] J. now the wife of your Orator William Pennington. James Daugherty[2]. Nathaniel C. Daugherty[3]. William Daugherty[4]. Susan Warren[5] widow of Jerome Warren dead, Lucy Ferguson[6] wife of G W M Ferguson Ernest Daugherty[7] a Grand son of said Henry Daugherty dead. Jasper Burchett. Abegal Burchett Mary Burchett, James Burchett, George Burchett, Nathaniel Burchett, and Lucy Burchett, now the wife of   Kelly who are children and heirs at law of Mariah Burchett dead who was a daughter of the said Henry Daugherty dead. and the said Rhoda Phillips dead.

Your Orators further state that after the death of said Abegal and Henry Daugherty, the said James Daugherty conveyed his interest in said lands to his sister the said Rhoda Phillips, so that at her death she was the owner of two ninths of said tract of land.

Your Orators further state, that the said Francis M Phillips was the owner by purchase of 6 ninths of said tract of land, being the shares conveyed to him, by Wm. Pennington & wife, George W. M Ferguson & wife Susan warren, Nathaniel C. Daugherty. Wm. Daugherty and Ernest Daugherty. So that at the time of their death the said Francis M Phillips and Rhoda Phillips his wife were the owners of Eight ninths of said tract of land and the remaining ninth part thereof belongs to the heirs of the said Mariah Burchett, before named.

Your Orators further state that at the death of said Francis M, and Rhoda Phillips eight ninths of said tract of land descended to the said Jennie E Kinser, and the 5 wards of your Orators.

The said tract of land is in an undivided condition and is greatly out of repair and the rents and profits thereof for a number of years to come, will hardly be sufficient to pay the ordinary expenses of the necessary and indispensable repairs necessary to protect a crop thereon.

Your Orators have been informed, and they believe that it is the wish and desire of the heirs of the said Mariah Burchett that their One ninth interest in said land be sold and all of them except Keller and wife are infants under 21 years of age

In the event of the death of all the children + heirs of said Frances M. and Rhoda Phillips before attaining the age of 21 years, without issue, the title to two ninths of said tract of land would descend to the brothers and sisters and the descendents of such, of the said Rhoda Phillips who are your Orators Wm. Pennington & wife Geo. W. Ferguson & wife Susan Warren James Daugherty, Nathaniel B. Daugherty, William Daugherty, and Emet Daugherty, and the said heirs at law of Mariah Burchett dec'd (the ~~latter~~ said Emet Daugherty being an infant and his interest in said land having been sold by a decree of this court, and purchased by said F. M. Phillips) and Six ninths thereof would descend to the brothers and sisters, of the said Francis M. Phillips, who are Martha A Dickinson, Addie Phillips, Caroline Travis, wife of Edward Travis, Zebedee Phillips, Andrew Phillips, and James Phillips:

The said James Daugherty, Nathaniel B Daugherty, Wm Daugherty Emet Daugherty Susan Warren, George W M Ferguson, Lucy Ferguson, Keller, Lucy Keller, Jasper Burchett, Abigal Burchett, Mary Burchett, James Burchett, George Burchett, and Nathaniel Burchett, are non residents of the state of Virginia

Your Orators state that the said Burchett heirs live in the Western States, and that it is their desire that their interest in said lands be sold.

The said lands being undivided, and in a very low state of repair, and their condition such that they cannot for a number of years yield your Orators wards any thing in the way of rents and profits, beyond what it will require to pay taxes and to put the premises in a condition to save and protect a crop. And the same are so situated that if offered for sale they will bring a fair and full price as your Orators believe

Your Orators further state, that if said entire lands were sold in a body together, they will bring a better price than to sell the same in detached parcels. *

Your Orators now state that the interest of their said wards as well as all others interested in said lands will be promoted by a sale thereof, and the proceeds arising therefrom put at interest for the use and benefit of said wards and others, and to attain that end is the object of this bill.

The premises considered your Orators pray that the said Hiram Kinser and Jennie Kinser his wife, Alice P. Phillips. Abigal E. Phillips, Mary E. Phillips Jennie M. Phillips and Lee Phillips. Martha A. Dickinson Addie Phillips Zebedee Phillips, Andrew Phillips, James Phillips Edward Travis and Caroline Travis James Daugherty Nathaniel C. Daugherty William Daugherty. Ernest Daugherty Barbry J. Pennington, Susan Warren, George W. Ferguson Lucy Ferguson. Keller and Lucy Keller, Jasper Burchett, Abigal Burchett, Mary Burchett, James Burchett, George Burchett, and Nathaniel Burchett, be made defendants to this bill, and be required to answer the same on oath: that an order of publication be entered posted and published against the non residents before named, that a guardian ad litem be appointed for the infants before mentioned to defend their interest in this suit. And upon a hearing of the cause, that said land be decreed to be sold in a body together, And if in any wise mistaken in this their special prayer then your Orators pray for all general relief. May the commonwealths writ of Spa issue directed

Henry J. Morgan for Plffs.

We John A. G. Hyatt & Wm Pennington ~~one of~~ the plaintiffs in the foregoing bill do swear that we believe the statements of the foregoing bill are substantially true, and they also believe that the interest of all parties will be promoted by a sale of said land, so they pray.

J. A. G. Hyatt Guard &c

Sworn to before me by John A. G. Hyatt ~~William Pennington~~ and William Pennington ~~one of~~ the Pltffs, the 5th day of Augt 1888.
and 15th of Decr 1888. Henry J. Morgan Comr

* Your Orators further State that four of their said wards are quite young and it will be a considerable length of time before they are old and large enough, to become self sustaining and their relatives ~~in~~ this country are not in a condition to take care of and educate them without some compensation

Your orators further State that after the debts and liabilities of the said F. M. Phillips shall be paid, that there will not be left of his personal estate more than will give to each heir about the sum of $100. the interest, or income on which would only be about $6.00 per year which would be very inadequate compensation for taking care of them

Your Orators further state that the income on their personal estate, and the interest on the proceeds of the real estate if sold would yield them annually from $20.00 to $30.00 per year each as your Orators verily believe, and they at the same time believe that if the real estate remains in kind as it is, it will not give them any thing like that sum annually.

C 14.72

Hyatt & Pennington [illegible]

vs. } Bill

Hiram Kinser & others

Clerk $14.[illegible]
S 4.[illegible]
D 5.[illegible]
Comm 1.[illegible]
S. A. L. 5.[illegible]
A 15.[illegible]
Commr.
Estimate

1888, 1st Aug Rules [illegible]
Sh'd Exd on adult
Defts & D. [illegible]
order [illegible]
[illegible] Deft, [illegible]

" 4th Aug Rules, D. [illegible]
[illegible]
[illegible]

1888, Dec. [illegible]
1889 [illegible] Court [illegible]

Costs 10.[illegible]
C 8.[illegible]
Col 3.[illegible]
P [illegible]

" Deft, [illegible]
1890 March [illegible]
" Sept, Decree [illegible]